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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,195	02/25/2004	Toshihiro Matsuura	016891-0865	3378
22428	7590	12/29/2005	EXAMINER	
FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			LE, UYEN CHAU N	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/785,195	MATSUURA, TOSHIHIRO	
	<b>Examiner</b>	<b>Art Unit</b>	
	Uyen-Chau N. Le	2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 December 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-14 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Prelim. Amdt/Amendment***

1. Receipt is acknowledged of the Amendment filed 05 December 2005.

***Allowable Subject Matter***

2. The indicated allowability of claims 3-11 and 13 is withdrawn in view of the newly discovered reference(s) to Koskimies (US 20040081110 A1). Rejections based on the newly cited reference(s) follow.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi et al (JP 2002-215914) in view of Koskimies (US 20040081110 A1).

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Re claims 1-11 and 13: Takahashi et al discloses a sales system comprising user mobile terminals 4a, each owned by a train passenger, for storing an in-train merchandise purchase program; salesperson terminals each borne by a salesperson in the train 1 (i.e., a missionary salesman 7 possesses the pocket sales management terminal 14 and the DEBITTO terminal 9); a merchandise management terminal 2 connected to the user mobile terminals 4a and the salesperson terminals 7 via a network 4 in the train; and a merchandise management server (i.e., host 13) to which the merchandise management terminal is connected via the Internet; wherein:

the merchandise management terminal has:

means, upon receiving ordering information entered from the user mobile terminal in accordance with the in-train merchandise purchase program, for discerning the payment method and, for transferring the ordering information to the salesperson terminal if the payment method is cash payment; and

means, for requesting the merchandise management server to give authentication if the payment method is any other method than cash payment and, for transferring the ordering information to the salesperson terminal if authentication is given; and

the merchandise management server has means for settling account with the passenger requiring any non-cash payment method

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when notified by the salesperson terminal of the completion of a sale via the merchandise management terminal. (See English abstract and English translation, paragraphs [0005-0021])

wherein the merchandise management server has authenticating means, upon receiving a request for authentication from the merchandise management terminal, for checking whether the name and the password contained in the ordering information are identical with the respective ones registered in advance as personal information; for discerning whether account settlement information matching the payment method contained in the ordering information is contained in the pertinent personal information and, for giving authentication if both the name and the password are identical and the account settlement information is registered (Takahashi et al: English translation, paragraphs [0019-0021]).

Takahashi et al is silent with respect to the merchandise management server downloads to the user mobile terminals the in-train merchandise purchase program.

Koskimies teaches a user mobile device 112 is downloaded from a server a data ordering program, the data ordering program is executed on the user mobile device 112 (paragraphs [0012-0013]).

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It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to further employ the method of downloading the purchasing/ordering program from the server to the mobile device of Koskimies into the system as taught by Takahashi et al due to the fact that any desired purchasing/ordering program can be downloaded to the mobile device. Furthermore, such modification would provide the user the flexibility of ordering a desired product at any time in a timely manner (i.e., in the event of "network error" or "peak time", which would slow-down the loading process via the network/internet) because the ordering/purchasing program already previously downloaded into the mobile device.

5. Claims 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi et al as modified by Koskimies as applied to claim 1 above, and further in view of Iwase et al (US 2002/0165803). The teachings of Takahashi et al as modified by Koskimies have been discussed above.

Re claims 12 and 14: Takahashi et al/Koskimies has been discussed above but is silent with respect to means for managing the inventory volume of each merchandise item and transmitting the inventory volume of each merchandise item at a request from the user mobile terminal.

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Iwase et al teaches a system comprising a portable device possessed by a user and a host computer for communication with the portable device, the host computer comprising: memory means for storing the number of inventories of each of commodities placed in the shop, and substitute commodity information corresponding to each commodity; first acquisition means for acquiring, when a commodity inventory inquiry request has been received from the portable device, the number of inventories of the associated commodity by searching the memory means; first transmission means for transmitting to the portable device the information on the number of inventories of the commodity acquired by the first acquisition means (paragraph [0011] and claim 6).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the teachings of Iwase et al into the system as taught by Takahashi et al/Koskimies in order to provide the customer with an exact number of items/products available for ordering/purchasing, preventing the customer from ordering out-of-stock items, thus reducing time and labor.

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***Response to Arguments***

6. Applicant's arguments with respect to claims 1, 12 and 14 have been considered but are moot in view of the new ground(s) of rejection.

Newly cited reference to Koskimies has used in the new ground of rejection to further meet the limitation of the claimed invention.

***Conclusion***

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The patents to Benyak (US 6533173 B2); Rautila (US 6714797 B1); Fowler (US 20020091593 A1) are cited as of interest and illustrate a similar structure to a sales system, sales management terminal and program for selling goods aboard train.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Uyen-Chau N. Le whose telephone number is 571-272-2397. The examiner can normally be reached on First Monday 5:30AM-1:30PM and Tues-Fri 5:30AM-3PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the

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organization where this application or proceeding is assigned is  
571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Uyen-Chau N. Le  
Examiner  
Art Unit 2876

December 18, 2005